

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LaShaun Reed,

Plaintiff,

v.

Case No. 2:19-cv-898

O.D.R.C.,
et al.,

Defendants.

ORDER

Plaintiff LaShaun Reed, an Ohio inmate, brings this action *pro se* against the Ohio Department of Rehabilitation and Correction ("ODRC") and several individuals employed by ODRC. Plaintiff alleges that while he was incarcerated at the London Correctional Institution, he was violently assaulted by Corrections Officers Smith and Rapp, resulting in dizziness, blackout and blurred vision. On April 9, 2019, the magistrate judge filed a report and recommendation on the initial screen of plaintiff's complaint pursuant to 28 U.S.C. §1915A, which requires the court, "in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity," to dismiss a complaint that fails to state a claim upon which relief may be granted. 28 U.S.C. §1915A(a)-(b)(1). The magistrate judge recommended that plaintiff's claim against ODRC be dismissed because that state agency is immune from suit under the Eleventh Amendment and is not a "person" subject to suit under 42 U.S.C. §1983. The magistrate judge recommended that the plaintiff be permitted to proceed with his claim against the remaining defendants.

The report and recommendation advised plaintiff that the

failure to object to the report and recommendation would result in a waiver of the right to have the district judge review the report and recommendation *de novo* and a waiver of the right to appeal the decision of the district court. Doc. 4, p. 5. No objections were filed to the report and recommendation.

The court agrees with the report and recommendation (Doc. 4), and it is hereby adopted. The claim against defendant ODRC is dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) because plaintiff's complaint fails to state a claim for which relief may be granted as to that defendant. The clerk is directed to terminate ODRC as a defendant. Plaintiff will be permitted to proceed against the remaining defendants.

Date: May 1, 2019

s/James L. Graham
James L. Graham
United States District Judge